

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Crl.MC.No. 2362 of 2007()

LP.60/2006 IN C.C. 4/05 of JUDL.MAGISTRATE OF FIRST CLASS-II,
THAMARASSERY
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PETITIONER: ACCUSED:

ASHOK KUMAR,
THERAYIL HOUSE, NEDUKULANJI,
PANDANILAM P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.K.SASIKUMAR
SRI.S.SREEDUTT

RESPONDENTS: COMPLAINANT:

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1. C. SUNIL, S/O. ABDUL RASHEED,
CHALIL HOUSE, KARASSERI P.O., MUKKAM, KOZHIKODE.
 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 2362 of 2007

Dated this the 24th day of July, 2007

ORDER

The petitioner is the accused in a prosecution under Section 138 of the N.I. Act. Cognizance has been taken. Consequent to the non-appearance of the petitioner, coercive processes have been issued against the petitioner. Steps are being taken by the court to secure the presence of the petitioner.

2. The petitioner, through his counsel, submits that the petitioner is absolutely innocent. According to the petitioner he had no clue of the pendency of the proceedings before the learned Magistrate. The petitioner is willing to appear before the learned Magistrate through counsel and co-operate for the early disposal of the case. To show his bonafides he is willing to deposit the entire cheque amount and some amount to provide for the interest and cost. This offer is made to show the bonafides of the petitioner. He may be permitted to appear through counsel. The mere fact that warrant of arrest has been issued may not stand in the way of the learned Magistrate considering and accepting the request of the petitioner for exemption from personal appearance, submits the counsel. I find the request to be absolutely justified.

3. This Crl.M.C. is allowed. It is directed that if the petitioner deposits an amount of Rs.11,000/- before the learned Magistrate and applies through counsel to exempt him from personal appearance and to permit him to appear through counsel, the learned Magistrate shall accept the said request and exempt the petitioner from personal appearance. The fact that a warrant of arrest and coercive processes have been issued against the petitioner shall not stand in the way of the learned Magistrate considering and accepting the said request for exemption. It is now trite that the plea of the accused can be recorded and the proceedings can be continued even without his personal appearance, when he is exempted from appearance. The learned Magistrate shall proceed with the case. The learned counsel for the petitioner further submits that if the complainant is prepared to withdraw the case, the petitioner has no objection against the release of the entire amount of Rs.11,000/- to the complainant. That offer and submission is also specifically taken note of and recorded so that the court below can act on the same.

(R. BASANT)
Judge

CrI.M.C.No. 2362 of 2007

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